



# *The Housing* **How California**

by Brian Heaton and Bill Higgins

*This year, nearly half of the cities and counties in the state are updating the housing elements of their General Plan — a process that has received mixed responses from local officials.*

**A**t first glance, drafting a new housing element may not seem that complicated. The housing element requires a city to plan for its fair share of housing for each income category: very low, low, moderate and above moderate. The city must identify the land where this housing will be located. To the extent that communities cannot complete this inventory, they must develop a program so that all the land will be identified and appropriately zoned by the end of the five-year planning period.

However, the next round of housing elements is subject to significant revisions that were made to the housing element law in 2004. Last year, cities and counties in the San Diego area were the first in California to submit their elements to the California Department of Housing and Community Development (HCD) under these changes. HCD reviews the draft housing element and provides written findings, which the local government must consider prior to adopting the housing element.

# Element Process: Cities Are Faring

## The Updated Inventory Requirement

One of the biggest changes made to housing element law was the need for a more detailed housing site inventory. State law tightened up the requirement that local agencies identify where land will be zoned to accommodate their fair share of the regional housing needs allocation (RHNA). The analysis must be on a parcel-by-parcel basis, and each parcel must be analyzed for specific regulatory or physical constraints that may limit production.

While a smaller city may not have an issue with doing an expanded analysis, for larger cities it can be a grueling task. For example, San Diego's previous site inventory consisted of a single table on one page. Under the latest housing element law changes, however, the city's site inventory spanned 1,500 pages.

"In my view, while [San Diego's] 1,500-page inventory got HCD's stamp of approval, I don't think that's what had to be done," said Susan Baldwin, senior regional planner, San Diego Association of Governments (SANDAG). "Having a small city do a site-by-site inventory is one thing, but it makes less sense in a big city context."

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Cathy Creswell, policy director for HCD, sees the limitations. "The inventory creates certainty, but the idea was that developers and others could easily access the inventory to find where the housing opportunities are. I'm not sure that a 1,500-page inventory is a very usable document."

Poway is one of the smaller cities where the site inventory hasn't been overwhelming, encompassing just two pages. Poway's housing element had been submitted to HCD, reviewed and sent back to the city for some additional changes, but according to Patti Brindle, a Poway city planner, the process has gone fairly well.

"Overall, our experience with HCD has been positive," Brindle said. "Even though we're having some difficulties, HCD is trying to be helpful and has been very accommodating."

Poway's challenge is the housing allocation itself. The city has no freeways, so providing smart growth opportunities is difficult. On top of that, a good chunk of Poway falls in a multispecies habitat protection plan, meaning that the city's RHNA allocation of 1,242 units took into account land it can't build on — something Brindle felt should be addressed.

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## What's in a Housing Element?

A General Plan's housing element must contain these basic components:

**Housing Needs Assessment.** This includes an analysis of the number of households that must spend more than 30 percent of their income on housing, live in overcrowded and substandard conditions or have special housing needs (including people with disabilities, senior citizens and the homeless).

The assessment must also identify assisted housing units that are at risk for losing their public subsidy. The projected needs assessment summarizes by income category the number of new units needed to accommodate the agency's share of the regional housing need.

**Land Inventory.** The inventory must identify sites that are zoned and suitable for housing development (including having access to roads, water, sewers and other infrastructure) within the planning period. The agency must demonstrate that it can accommodate its share of the regional housing need by income level, especially its share of affordable housing for low- and moderate-income households.

**Constraints Analysis.** This analysis reviews governmental and nongovernmental constraints to housing production. Governmental constraints include land use controls, fees and dedications, building codes and their enforcement, and permit and processing procedures. Nongovernmental constraints include the availability of financing, land costs and construction costs.

**Housing Programs.** The element must identify adequate sites to accommodate the agency's share of the regional housing need. It must also identify programs to:

- Assist in the development of low- and moderate-income housing;
- Remove or mitigate governmental constraints;
- Conserve and improve the existing affordable housing stock;
- Promote equal housing opportunity; and
- Preserve existing affordable housing units.

**Quantified Objectives.** The element must include an estimate of the maximum number of units, by income level, to be constructed, rehabilitated and conserved during the planning period.

**Public Participation.** This section describes how the agency has engaged or will engage people from all economic segments of the community to develop the housing element.

"The real challenge came when we were allocated so many units," Brindle explained. "Half of our city is in a habitat reserve and the RHNA number was weighted because of our high median income. What we're looking for are changes in state law on how to approach this on a regional basis."

The housing element changes have also resulted in a much bigger investment of cities' time. According to Mike McLaughlin, an independent planning consultant working with some Orange County cities on their housing elements, in the past most of a city's time was spent preparing the first draft of a housing element. Now the same amount of time needs to be budgeted to respond to HCD's questions.

While McLaughlin praised the staff of HCD for being helpful, he admitted that the process can be frustrating, with documents reviewed three and four times before being approved.

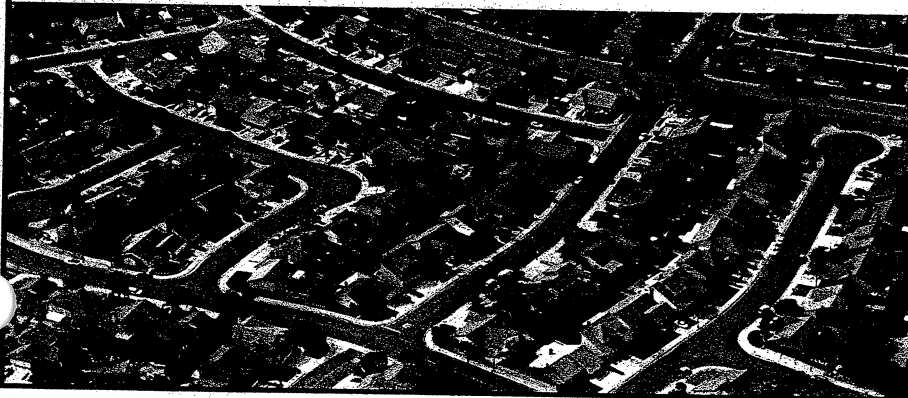
"The protracted back and forth between the city and HCD to address their concerns is much more detailed," McLaughlin said. "The review and comment period takes at least as long as the preparation of the original document."

### Working on Solutions

In December 2007, HCD reported that nearly 80 percent of all cities and counties in the state had an approved housing element. Those local jurisdictions represented nearly 90 percent of the state's population. Of the agencies that did not have an approved housing element, nearly half were cities with populations of 20,000 or less, suggesting that the costs and complication of the housing element may have contributed to some of the noncompliance.

The good news for cities is that HCD is working to address the issue, and its director, Lynn Jacobs, understands the need for foresight in the process.

"Good planning leads to good housing," Jacobs told city officials at the League of California Cities 2007 Annual Conference in Sacramento. "We need to concentrate on providing housing for all Californians."



One of the ways HCD hopes to help is by providing sample housing elements that identify the types of housing programs it will approve. Although still in draft form when *Western City* went to press, HCD reported that progress was being made to circulate the models in 2008 (for more information, visit [www.hcd.ca.gov/hpd/housing\\_element](http://www.hcd.ca.gov/hpd/housing_element)).

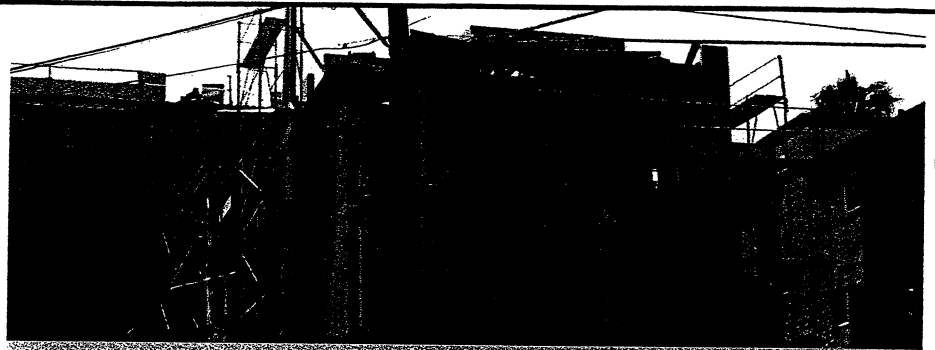
McLaughlin believes the sooner HCD can provide a model to work from, the better off everyone will be. "HCD already refers people to parts of other cities' housing elements to address questions raised in the review process," he said. "Having that beforehand would give me a much better feel for detail and the set of requirements that they are looking for."

Despite these setbacks, local agencies and HCD are committed to working together to fine-tune the housing element process. Baldwin, in particular, stressed the need for cities and agencies that had a difficult time completing their housing element to put their thinking caps on and streamline the process.

Pushing for a housing element working group, the SANDAG regional planner thinks getting together a couple of times a year to hammer out informal guidelines might be a productive start.

"So much of this ends up being done in a vacuum, and there must be better ways," Baldwin said. "This isn't a slam against HCD. A lot of people are out there trying to determine how we can best use the limited resources HCD has to make it better for everyone."

HCD staff also seem to be thinking along these lines. "In the future, I think we will see housing efforts like the one that occurred when Orange County worked with a group of students from the University of California, Irvine, to create an online inventory of housing sites for the unincorporated areas," Creswell noted. "Using technology to make the process easier and more informative for the public would be better for everyone involved." ■



## Does the Housing Element Really Lead to More Housing?

One criticism of the housing element is that it does not actually guarantee more housing. In 2003, the Public Policy Institute of California studied the overall effectiveness of the housing element. Local officials often point to one of the report's conclusions: There were no differences in overall housing production between local agencies that had an approved housing element and those that did not.

However, the report also found local agencies that did have an approved housing element were better at providing affordable housing, or housing for all income categories. A fair conclusion would be that the process of developing plans and programs for affordable housing is likely to help a community increase the opportunities for affordable housing.

The reality is that the housing element does not actually require local agencies to plan for most affordable housing. Instead, the process uses density as a proxy for affordability. Think of it this way: Local agencies do not actually zone for affordable housing (unless they have adopted a local inclusionary housing policy). Instead, the housing element requires local agencies to zone at certain densities and presumes that these densities will allow affordable housing to be built.

These densities — 10, 15, 20 or 30 units per acre (also known as the "Mullin Densities") — vary with the size of the agency. Setting the density, however, does not guarantee affordability. Just because a local agency would allow 20 units to be constructed on an acre, a level that allows all 20 units to be counted as affordable in suburban areas, does not guarantee that those units are affordable. The property owner may ultimately decide to develop the property as luxury condominiums that are not affordable. The housing element, however, does not address the final outcome — just the density.

## What's the RHNA Number?

A regional housing needs allocation (RHNA) is a process that devises the number of housing units a city, county or agency must plan for in its housing element. The RHNA process starts with a California Department of Finance estimate of the state's total housing needs from all income levels. That number is divided proportionately among the state's regions, then further divided and assigned to each city and county by regional councils of government; it's referred to as the RHNA (pronounced "reena") number.